



Senate

General Assembly

File No. 183

January Session, 2013

Substitute Senate Bill No. 760

Senate, March 27, 2013

The Committee on Children reported through SEN. BARTOLOMEO of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE PHYSICAL RESTRAINT OF STUDENTS
BY SCHOOL EMPLOYEES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2013*) (a) For purposes of this
2 section:

3 (1) "School employee" means (A) a teacher, substitute teacher,
4 school administrator, school superintendent, guidance counselor,
5 psychologist, social worker, nurse, physician, school paraprofessional
6 or coach employed by a local or regional board of education or who
7 otherwise works in a public elementary, middle or high school; or (B)
8 any other individual who, in the performance of his or her duties, has
9 regular contact with students and who provides services to or on
10 behalf of students enrolled in a public elementary, middle or high
11 school, pursuant to a contract with the local or regional board of
12 education; and

13 (2) "Physically restrain" means to restrict or immobilize a student so
 14 as to reduce the free movement of such student's arms, legs or head.
 15 "Physically restrain" does not include (A) briefly holding a student in
 16 order to calm or comfort such student, or (B) restraint involving the
 17 minimum contact necessary to safely escort a student from one area to
 18 another.

19 (b) No school employee shall be required to physically restrain a
 20 student if such school employee reasonably believes that doing so may
 21 result in harm to such school employee.

22 (c) No local or regional board of education shall dismiss, discipline
 23 or otherwise penalize any school employee who refuses to physically
 24 restrain a student if such school employee reasonably believes that
 25 doing so may result in harm to such school employee.

26 (d) Any school employee may file a complaint with the Labor
 27 Commissioner alleging violation of subsection (c) of this section. Upon
 28 receipt of any such complaint, the commissioner shall hold a hearing.
 29 After the hearing, the commissioner shall send each party a written
 30 copy of the commissioner's decision. The commissioner may award the
 31 employee all appropriate relief, including payment of back wages to
 32 which the employee otherwise would have been eligible if a violation
 33 of subsection (c) of this section had not occurred. Any party aggrieved
 34 by the decision of the commissioner may appeal the decision to the
 35 Superior Court in accordance with the provisions of chapter 54 of the
 36 general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2013	New section

Statement of Legislative Commissioners:

In section 1(a)(1), "working" was changed to "who otherwise works" for clarity and in section 1(d), "aggrieved by a violation of subsection (c) of this section" was deleted for clarity.

KID *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Labor Dept.	GF - Potential Cost	Up to 36,764	Up to 36,764
State Comptroller - Fringe Benefits ¹	GF - Potential Cost	Up to 12,699	Up to 12,699

Municipal Impact: None

Explanation

The bill prohibits anyone from requiring a school employee to physically restrain a student if the employee believes that doing so will result in physical harm, and prohibits local and regional boards of education from otherwise penalizing a school employee for refusing to restrain a student. This does not result in a fiscal impact to local and regional school boards.

The bill allows an employee to file a complaint with the Labor Commissioner alleging a violation of this provision. The Department of Labor (DOL) may incur personnel costs associated with enforcing the bill's provisions if school employees bypass the collective bargaining process and file complaints directly with DOL. Costs will depend on the number of complaints filed. If there are a significant number of complaints, DOL may need a half-time investigator. The cost of this position would be \$36,764 annually, plus fringe benefits (\$12,699 annually).

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 34.54% of payroll in FY 14 and FY 15.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation. In addition, normal annual pension costs (currently estimated at 7.5% of payroll) attributable to the identified personnel changes will be recognized in the state's annual required pension contribution in future actuarial valuations.

OLR Bill Analysis**SB 760*****AN ACT CONCERNING THE PHYSICAL RESTRAINT OF STUDENTS BY SCHOOL EMPLOYEES.*****SUMMARY:**

This bill prohibits anyone from requiring a school employee to physically restrain a student if the employee reasonably believes that doing so will result in personal harm to the employee.

It also prohibits local and regional boards of education from dismissing, disciplining, or otherwise penalizing a school employee for refusing to physically restrain a student for that reason. An employee may file a complaint with the labor commissioner alleging a violation of this provision. The commissioner must then hold a hearing and send each party a written copy of his decision. He may award the employee all appropriate relief, including back pay. Aggrieved parties may appeal the commissioner's decision to the Superior Court in accordance with the Uniform Administrative Procedure Act.

EFFECTIVE DATE: July 1, 2013

DEFINITIONS

The bill defines a school employee as (1) a teacher, substitute teacher, school administrator or superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional or coach employed by a local or regional board of education or working in a public elementary, middle, or high school; or (2) contractors who come into regular contact with such students when performing their duties.

Under the bill, "physically restrain" means to restrict or immobilize a student to reduce the free movement of his or her arms, legs, or head.

This does not include (1) briefly holding a student in order to calm or comfort him or her, or (2) minimum contact necessary to safely escort a student from one area to another.

BACKGROUND

Use of Reasonable Physical Force

The law allows a teacher or other person entrusted with the care and supervision of a minor for school purposes to use reasonable physical force when and to the extent he or she reasonably believes necessary to (1) protect himself or herself or others from immediate physical injury, (2) obtain possession of a dangerous instrument or controlled substance in the minor's control, (3) protect property from physical damage, or (4) restrain the minor or remove him or her to another area to maintain order (CGS § 53a-18(6)).

Physical Restraint

State law prohibits the use of physical restraint on public school students receiving or being evaluated for special education services (i.e., "special education student") unless used in emergency situations to avoid imminent injury to the student or others. It also requires local and regional school boards to notify a special education student's parents or guardian each time a student is placed in physical restraint (CGS § 46a-152).

With some exceptions, the law defines "physical restraint" as any mechanical or personal restriction that immobilizes or reduces the free movement of a person's arms, legs, or head. The definition does not include helmets, mitts, and similar devices used to prevent special education students from hurting themselves if their use is documented in their individualized education plans.

COMMITTEE ACTION

Children Committee

Joint Favorable

Yea 10 Nay 2 (03/12/2013)